

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

Criminal Case No. 02-80501  
Civil Case No. 05-60160

v.

GUSSAN ABRAHAM JARRAR,

Honorable John Corbett O'Meara

Defendant-Petitioner.

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**OPINION AND ORDER**

**DENYING PETITIONER'S JULY 11, 2005 MOTION TO VACATE SENTENCE**

This matter came before the court on petitioner Gussan Abraham Jarrar's July 11, 2005 motion to vacate sentence under 28 U.S.C. § 2255. The government filed a response August 17, 2005; and Petitioner filed a reply by way of a letter August 26, 2005.

Petitioner in part based his motion to vacate on the United States Supreme Court case filed earlier this year, Booker v. Washington, 543 U.S. 220 (2005). However, the Court's holding in Booker, which requires a jury finding or an admission during a guilty plea of facts used to reach a sentence, is not retroactive to Petitioner's case, as Booker applies only to cases on direct review. The Court of Appeals for the Sixth Circuit has held that Booker is not retroactive to cases on post-conviction review. Humphress v. United States, 398 F.3d 855, 860-63 (6th Cir. 2005).

Petitioner's other arguments, that this court incorrectly computed the sentencing guidelines and that he was denied his right to a speedy trial, have been considered and rejected by the Sixth Circuit. United States v. Jarrar, 99 Fed. Appx. 726, 730-31 (6<sup>th</sup> Cir. 2005). Finally, Petitioner's allegation that he went unrepresented by counsel is simply wrong. Petitioner was represented by

attorney Don Ferris, who made a number of objections to the presentence report on Petitioner's behalf.

Therefore, it is hereby **ORDERED** that petitioner Jarrar's July 11, 2005 motion to vacate sentence is **DENIED**.

s/John Corbett O'Meara  
John Corbett O'Meara  
United States District Judge

Dated: December 21, 2005